



Attorney Docket No. 11022US11 / 200-70.P4.C2

201
205
204
SECTORS
13

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:

MARC D. BETTER et al.

Serial No.: 09/610,838

Filed: July 6, 2000

For: FUSION PROTEINS AND
POLYNUCLEOTIDES ENCODING
GELONIN SEQUENCES

Examiner: Not yet assigned

Group Art Unit: 1645

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, under 37 C.F.R. §1.8, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, Attention: BOX MISSING PARTS on October 10, 2000.

Janet M. McNicholas
Janet M. McNicholas, Ph.D.
Reg. No. 32,918

RESPONSE TO NOTICE OF MISSING PARTS

Assistant Commissioner for Patents
Washington, D.C. 20231
Attention: BOX MISSING PARTS

Sir:

This is in response to the Notice To File Missing Parts of Nonprovisional Application (the "Notice") dated September 8, 2000 in the above-identified application. Copy of the notice is enclosed. This response is timely filed within the two-month response period for responding to the Notice to File Missing Parts.

In the Notice, the basic filing fee for a small entity (\$345.00) was identified as missing. Enclosed for filing herewith is an executed Verified Statement Claiming Small Entity Status (37 CFR §§1.9(f) and 1.27(c)) - Small Business Concern. Accordingly, a check in the amount of \$945.00 is enclosed, of which \$345.00 is allocable to the small entity filing fee, \$405.00 for 45

total claims over 20, \$130.00 for multiple dependent claim surcharge, and \$65.00 is allocable to the late filing fee surcharge for responding to the Notice of Missing Parts.

The Commissioner is hereby authorized to charge any additional fees which may be required to Deposit Account No. 13-0017 in the name of McAndrews, Held & Malloy, Ltd.

Respectfully submitted,

DATED: October 10, 2000

Janet M. McNicholas
Janet M. McNicholas, Ph.D.
Reg. No. 32,918

McAndrews, Held & Malloy, Ltd.
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/610,838	07/06/2000	Marc D. Better	11022US11/200-70.P4.C2

Janet M McNicholas PhD
McAndrews Held & Malloy Ltd
500 W Madison Street
34th Floor
Chicago, IL 60661



FORMALITIES LETTER



OC000000005384042

Date Mailed: 09/08/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 345 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$535.
 - \$405 for 45 total claims over 20.
 - \$130 for multiple dependent claim surcharge.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 945.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

10/16/2000 HND001 00000089 130017 09610838
01 FC:201 355.00 DP
FC:203 405.00 DP
FC:204 135.00 DP
FC:205 50.00 DP
15.00 CH
9/7/00



#3

PATENT

Attorney's Docket No: 11022US11 / 200-70.P4.C2

Applicant or Patentee: Marc D. Better, *et al.*

Serial or Patent No: 09/610,838

Filed or Issued: July 6, 2000

For: FUSION PROTEINS AND POLYNUCLEOTIDES
ENCODING GELONIN SEQUENCES**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ The owner of the small business concern identified below:
- ☒ An official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN XOMA CORPORATION

ADDRESS OF BUSINESS 2910 Seventh Street
Berkeley, CA 94710

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third-party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to, and remain with, the small business concern identified above with regard to the invention, entitled FUSION PROTEINS AND POLYNUCLEOTIDES ENCODING GELONIN SEQUENCES by inventor(s) Marc D. Better, *et al.*, described in:

- ☐ The specification filed herewith.
- ☒ Application Serial No. 09/610,838, filed July 6, 2000.
- ☐ Patent No. _____, issued _____.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor(s), who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

**NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).*

NAME: _____
ADDRESS: _____
☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Janet M. McNicholas

TITLE OF PERSON OTHER THAN OWNER: Assistant Secretary

ADDRESS OF PERSON SIGNING: XOMA Corporation
2910 Seventh Street
Berkeley, CA 94710

SIGNATURE: Janet M. McNicholas

Date: October 8, 2000